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Of Attorneys for Defendant

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

UNITED STATES OF AMERICA,

Plaintiff,

v.

LISA EPHREM,

Defendant.

Case No. 3:14-CR-00428-MO

DEFENDANT'S MOTION TO
POSTPONE SURRENDER DATE

Defendant, Lisa Ephrem, through her attorney Per C. Olson, moves this Court for an order postponing the date by which defendant is to surrender to the Bureau of Prisons for service of her sentence. The current surrender date is December 17, 2015. For the reasons described below, defendant requests a new surrender date of March 1, 2016, or as an alternative, February 1, 2016.

The purpose of this request is to avoid defendant's four year old son, Lorenzo, from having to be placed in foster care during the pendency of a petition that will be filed on Monday by defendant's mother, Diane Ephrem, to become Lorenzo's guardian while defendant serves her prison sentence.

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At the sentencing hearing on November 5, 2015, defendant advised the court of a custody matter pending in Clackamas County Circuit Court involving Lorenzo. The respondent in the custody matter is Lorenzo's biological father, David Lee. The court stated at sentencing that it would not significantly postpone defendant's surrender date so that she could personally appear in any hearings on the custody petition, noting that defendant could appear by telephone from prison. Defendant does not seek to change the court's position on that point. Rather, the court is asked to consider new information about Mr. Lee's fitness as a parent and how that affects Lorenzo's situation.

On November 12, 2015, defendant appeared before Clackamas County Circuit Court Judge Eve Miller on motions filed by each parent for temporary custody/parenting time. Defendant was represented by attorney Brett Engel, whose affidavit is filed herewith. At the end of the hearing, Judge Miller found that at the time defendant filed her motion, the child was in immediate danger because of David Lee's threats of violence towards defendant and the child and other conduct. Judge Miller was particularly moved by a video Mr. Lee posted on Instagram showing him attempting to teach the child to say derogatory things about his mother. Judge Miller stated that Mr. Lee was an unfit parent, and that when defendant goes to prison, Lorenzo likely will be placed in foster care under state supervision rather than with Mr. Lee.

On November 18, 2015, Mr. Engel filed on defendant's behalf a "Motion for Order for Complex Case Designation, and Assignment to Judge for Expedited Trial Date."

The purpose of the motion was to have the case assigned to a specific judge so that a

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trial date could be quickly calendared. Assuming Mr. Lee does not object to that motion, it likely will be granted today (December 3, 2015).

Meanwhile, defendant's mother, Diane Ephrem, has hired an attorney, Mark Kramer, to file a petition in Clackamas County Court to intervene in the custody matter and to be declared Lorenzo's guardian. If granted the relief she seeks, Diane would take custody of Lorenzo during defendant's prison sentence. Mr. Kramer anticipates that he will file the motion on December 7, 2015. He will also seek an order to appoint Diane Ephrem as a "temporary fiduciary" which, if granted, would give Diane immediate and temporary guardianship over Lorenzo until a trial on the merits of her petition could be heard. However, Mr. Lee could challenge such an order, resulting in uncertainty as to Lorenzo's status until Diane Ephrem's petition for guardianship is ultimately ruled upon.

The attorneys for defendant and her mother believe that the earliest date that a hearing on the merits of Diane Ephrem's petition for guardianship can be heard is February 1, 2016. A more conservative date is March 1, 2016, to account for delays for discovery issues and so on. Therefore, defendant requests that the court set March 1, 2016, as her new surrender date. Alternatively, defendant asks that the court set a new surrender date of February 1, and asks for leave to move for another extension if necessary, depending on how the custody matter proceeds.

To summarize, defendant requests that the court extend her surrender date as described herein so that she can continue to care for her son until such time that her

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mother's petition for guardianship is decided and to avoid Lorenzo having to go into foster care while that petition is pending.

DATED this 3rd day of December, 2015.

HOEVET OLSON HOWES, PC

s/ Per C. Olson
Per C. Olson, OSB #933863
Of Attorneys for Defendant